

# Fair Political Practices Commission



**2001 Annual Report**

## ***The FPPC: Who we are***

The Fair Political Practices Commission was created by the Political Reform Act of 1974, a ballot initiative passed by California voters as Proposition 9.

The Commission is a bipartisan, independent body of five members that administers and enforces the Political Reform Act's rules on conflicts of interest, campaign contributions and expenditures and lobbying disclosure.

The Commission educates the public and public officials on the requirements of the Act. It provides written and oral advice to public agencies and officials; conducts seminars and training sessions; develops forms, manuals, instructions and educational materials; and receives and files economic interests statements from many state and local officials.

The Commission investigates alleged violations of the Political Reform Act, imposes penalties when appropriate and assists state and local agencies in developing and enforcing conflict-of-interest codes.

The Governor appoints two commissioners, including the chairman. The Secretary of State, the Attorney General and the State Controller each appoint one commissioner. Commissioners serve a single, four-year term, and no more than three members can be registered with the same political party. The chairman is salaried and serves full-time, and the other four members serve part-time.

The Commission generally meets once each month to hear public testimony, issue opinions, adopt regulations, order penalties for violations of the Act and take other action.

Supporting the Commission is a staff of 75 employees. The Commission has four main divisions — Enforcement, Technical Assistance, Legal and Administration, as well as a small executive staff and a Public Education Unit.

The Commission is headquartered at 428 J Street in downtown Sacramento. The public reception area is in Suite 620.

# California Fair Political Practices Commission

Karen Getman, *Chairman*

Sheridan Downey III, *Commissioner*

Thomas S. Knox, *Commissioner*

Gordana Swanson, *Commissioner*

*(Please note: As of the publication date of this report, the State Controller had not yet named her appointee for the 2001-2005 term.)*

## Executive Staff

Mark Krausse, *Executive Director*

Luisa Menchaca, *General Counsel*

Steven Benito Russo, *Chief, Enforcement Division*

Robert Tribe, *Deputy Executive Officer and Chief, Administration Division*

Carla Wardlow, *Chief, Technical Assistance Division*

Sigrid Bathen, *Media Director*

Jon Matthews, *Publications Editor*

Scott Burritt, *Executive Fellow*

Sandy Johnson, *Commission Secretary*

## Commission Meetings

Meetings are generally held monthly in the Commission Hearing Room, 428 J Street, 8th Floor, Sacramento. Please refer to the Commission web site, [www.fppc.ca.gov](http://www.fppc.ca.gov), or contact the Commission secretary to confirm scheduled meeting dates.

The FPPC is required by section 11125 of the Government Code (the Bagley-Keene Open Meeting Act), to give notice of its meetings ten (10) days in advance of the meeting.

Commission meeting agendas and related documents are available on the FPPC web site at [www.fppc.ca.gov](http://www.fppc.ca.gov). To receive a copy of the agenda by mail (free) or a copy of the meeting packets (\$10/month or \$100/year) contact the Commission at (916) 322-5660.

The Fair Political Practices Commission *2001 Annual Report* was compiled and edited by the FPPC's Public Education Unit with the generous help and cooperation of other FPPC staff members.

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The mission of the FAIR POLITICAL PRACTICES COMMISSION is to promote the integrity of representative state and local government in California through fair, impartial interpretation and enforcement of political campaign, lobbying, and conflict-of-interest laws.

## *Letter from the Chairman...*

*This annual report is offered to highlight the major activities and accomplishments of the Fair Political Practices Commission during calendar year 2001.*

*The year brought major challenges to the commissioners and our 75-member staff. The voters' passage of Proposition 34 in November 2000 required extensive revision of our regulations and outreach programs to implement the ballot measure's substantive changes to the Political Reform Act. While we had hoped to undertake a comprehensive review of campaign reporting rules during 2001, many of our resources were by necessity redirected toward this ongoing Proposition 34 program. I am pleased to add, however, that some of the key strategies developed for the campaign reporting simplification project were incorporated into our Proposition 34 regulatory work.*

*Our other major goals and objectives for 2001 were largely accomplished. Our new toll-free advice number – 1-866-ASK-FPPC – was extensively publicized and received over 21,000 calls from throughout California. We expanded and improved our streamlined enforcement programs, which have increased compliance with the law. Our outreach, education and training programs — enhanced to include Proposition 34 information — reached thousands of public officials and candidates at all levels of government. We conducted more than 130 on-site outreach visits, including critically needed training of filing officers for statements of economic interests. We hosted dozens of educational seminars and held forums seeking public input on rule changes. Our web site, [www.fppc.ca.gov](http://www.fppc.ca.gov), was completely revamped in 2001 and now offers an extensive array of on-line publications and forms, as well as complete Commission meeting agendas and supporting documents. Our Public Education Unit became fully operational and earned awards for excellence in government communication.*

*Many challenges remain, including further implementation of Proposition 34, a review of Commission prosecution and fining policies, and a review of the Commission's role with regard to agency conflict-of-interest codes and timely filing of statements of economic interests.*

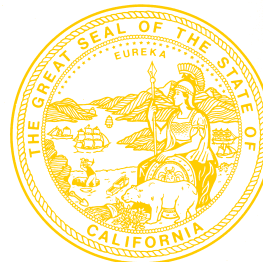
*As I serve the final year of my four-year term as Commission chairman, I want to express my gratitude to all of the current and former commissioners and FPPC staff members with whom I have had the honor of serving. They have persevered, under demanding deadlines and intense public scrutiny, to fairly and responsively serve the public, the regulated community and the government.*

*As always, we invite feedback on all of our efforts and how we may better serve California and its residents.*



April 2002

# The Commissioners of the California Fair Political Practices Commission



## Current Commission Members (as of April 1, 2002)

**Commission Chairman Karen Getman**, before her appointment in March 1999, was special counsel with the San Francisco firm of Rogers, Joseph, O'Donnell & Quinn, where she practiced political and election law and business litigation. From 1989 to 1996, she was with Remcho, Johansen & Purcell, specializing in political law and constitutional litigation. Ms. Getman earned her bachelor of arts degree from Yale University and graduated *cum laude* from the Harvard Law School, where she was editor-in-chief of the *Harvard Women's Law Journal*. Ms. Getman was the recipient of a Revson Women's Law and Public Policy Fellowship, and represented *pro bono* the Congressional Caucus on Women's Issues while an associate at the Washington, D.C., firm of Wilmer, Cutler & Pickering. She is currently a member of the board of directors of Women Executives in State Government. A Democrat, Ms. Getman was appointed chairman by Governor Gray Davis. Chairman Getman's term expires January 31, 2003.

**Commissioner Sheridan Downey III** is a former bankruptcy attorney in Oakland and was a law professor at the University of Santa Clara School of Law, teaching courses in debtor/creditor relations, real property, commercial law and legal research and writing. He was a partner in the Oakland firm of Caldecott, Peck and Phillips and of counsel to the firm of Bell, Rosenberg and Hughes. He served three terms on the Alameda County Democratic Central Committee and was a member of the California State Bar Committee on Debtor-Creditor Relations, lecturing frequently to legal aid societies in Northern California. Since 1990, he has been a full-time numismatist, dealing in early United States coins, and is a member of the Professional Numismatists Guild. Educated in the Oakland public schools, he received a B.A. in psychology from Stanford University and a law degree from the University of California, Boalt Hall School of Law, where he was a member of the Law Review. He is the grandson of former United States Senator Sheridan Downey (D-Calif., 1938-1950). A Democrat, he was appointed by Attorney General Bill Lockyer. Commissioner Downey's term expires January 31, 2005.

**Commissioner Thomas S. Knox** is a partner with the Sacramento law firm of Knox, Lemmon & Anapolsky, LLP. He is active in community organizations and has served as president of the Family Services Agency of Greater Sacramento, the McGeorge Law School Alumni Association, the Point West Rotary Club and the Active 20-30 Club of Sacramento. He is a

member of the Sacramento County Bar Association and the State Bar of California. He received a B.A. from the University of Pennsylvania and a law degree from McGeorge School of Law in Sacramento, where he was associate editor of the *Pacific Law Journal*. He is licensed to practice in the U.S. District Courts for the Northern, Eastern and Central Districts of California, the 9th U.S. Circuit Court of Appeals and the U.S. Supreme Court. Prior to attending law school, he served in Vietnam as a First Lieutenant in the U.S. Marine Corps, receiving the Bronze Star. A Republican, he was appointed by Secretary of State Bill Jones. Commissioner Knox's term expires January 31, 2005.

**Current  
Commission  
Members  
(as of April  
1, 2002)**

**Commissioner Gordana Swanson** was elected to four terms on the Rolling Hills City Council from 1976-1994 and served three times as that city's mayor. She served three years as director of development for the Toberman Settlement House, a non-profit human services organization. She also was president of the Southern California Rapid Transit District, and served as a director of the American Public Transit Foundation and the South Bay Juvenile Diversion Project. Active in numerous community and women's organizations, she was the founding president of the National Women's Political Caucus for the South Bay and served on the board of directors of the California Elected Women's Association for Education and Research (CEWAER). She currently is developing a not-for-profit organization in Los Angeles to aid the education of inner-city children in grades K-12. She attended De Paul University in Chicago, Illinois. A Republican, she was appointed by Governor Gray Davis. Commissioner Swanson's term expires January 31, 2003.

*Please note:* As of the publication date of this report, the State Controller had not yet named her appointee for the 2001–2005 term.

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**Carol D. Scott** served as commissioner from May 1, 1996, until February 1, 2002. An attorney in private practice in Los Angeles, Ms. Scott has served as counsel for several Congressional subcommittees and as a health policy specialist with the Federal Trade Commission. Ms. Scott specializes in health care law, administrative and labor law. Ms. Scott is a graduate of the University of California at Los Angeles, B.A. in history, *summa cum laude*, and J.D. from UCLA Law School. She received a master's degree in Health Care Administration from the Harvard School of Public Health. Ms. Scott, a Democrat, was appointed by State Controller Kathleen Connell.

**Other  
Commission  
Members  
who served  
during 2001**



## Highlights of FPPC Accomplishments and Activities in 2001

The Commission responded to voters' passage of Proposition 34 with an exhaustive and open interpretation and implementation process in calendar year 2001. Yet the Commission and its staff also found time to begin, expand or enhance other major projects, including successful streamlined enforcement programs, a new web site, and crucial education initiatives for those with duties under the Political Reform Act. A few highlights include:

— **Proposition 34 implementation.** The Commission, its Legal Division and other staff members devoted substantial time and resources to implementation of the major campaign law revisions of Proposition 34. The ballot measure was approved by over 60 percent of the voters in the November 2000 statewide election. An estimated 90 percent of the Commission's 2001

regulatory work schedule was related to Proposition 34. Among other Proposition 34-related projects, the Commission and its staff conducted 14 interested persons' meetings to seek public input on regulatory changes; created, amended or eliminated dozens of regulations; provided extensive written and oral advice to candidates and committees; modified major forms; coordinated with other agencies; and developed and conducted numerous outreach and educational initiatives. After extensive public hearings and debate, the Commission issued two formal opinions related to the ballot measure. On the legislative front, the Commission worked to incorporate passage of SB 34, which amended key provisions of Proposition 34 relating to spokesperson disclosure, member communications and campaign disclosure. The Commission is continuing its Proposition 34 work in earnest in 2002, including work on complex issues including advertising disclosure and membership communication.

— **Streamlined enforcement.** The Commission and its Enforcement Division expanded and improved three successful, streamlined enforcement programs to expedite disclosure of late contribution reports, major donor reports and statements of economic interests. In the major donor program's first year of operation, ending in June 2001, the FPPC Enforcement Division identified more than \$3 million in unreported contributions by major donor committees. Nearly 800 committees were contacted and made aware of possible reporting duties under the Political Reform Act, and 77 committees were found to have violated the Act. The program, initiated in June 2000, contributed to an 83 percent reduction in identified violations between the first and second semi-annual filing periods during its first year of opera-

State of California November 7, 2000 Election

### **Proposition 34** **Campaign Contributions** **and Spending.** **Limits. Disclosure.**

Legislative Initiative Amendment. Put on the ballot by  
the Legislature.

5,934,103 / **60.1%** Yes votes ..... 3,953,805 / **39.9%** No votes



tion. Key elements of the program are outreach and education, including forewarning of when late contribution reporting is required. In all of its enforcement programs, the Enforcement Division opened 770 enforcement case files in 2001. The division prosecuted a total of 160 administrative and civil cases. The Commission assessed \$678,000 in administrative and civil fines, an increase over the fine total in 2000.

— **Training and education.** Technical Assistance Division staff members conducted a record combined 189 outreach sessions, seminars and workshops during 2001. Increased emphasis was given to training and education at all levels of government, especially in the areas of conflicts of interests and new Proposition 34 requirements. The Commission's staff traveled throughout California in 2001 to help train and educate filing officers and other government officials on their duties under the complex rules of the Political Reform Act. Technical Assistance Division staff members conducted 63 on-site outreach visits on statements of economic interests rules, spanning 40 cities, 10 counties, eight state agencies and five multi-county agencies. The staff members made another 68 outreach visits on campaign rules. Staff also conducted 51



*Cynthia Jones is one of the FPPC political reform consultants who answer questions on our toll-free advice line.*

formal seminars in 2001 with a total audience of approximately 2,000 persons. Commissioners and staff from other divisions actively participated in many other well-attended forums and public events.



*Tara Stock, left, an FPPC staff services analyst, offers advice during an outreach visit with statements of economic interests filing officials at a water agency in Northern California.*

— **Toll-free advice line.** The Commission's toll-free advice line, **1-866-ASK-FPPC**, saw its first full year of operation in 2001 and proved to be a resounding success. On all lines, Commission staff answered approximately 50,000 calls for advice, guidance and other assistance. In addition, the Commission's Legal Division issued 306 advice letters during 2001 to those with obligations under the Act.

— **New web site.** The Commission's new and vastly expanded web site, [www.fppc.ca.gov](http://www.fppc.ca.gov), was launched in April 2001. The site provides a wealth of information, publications and forms, including monthly meeting agendas and supporting documents. Featuring an easy-to-use, text-based format, the site also offers the full text of the Political Reform Act. The web site is coordinated by the FPPC's Public Education Unit, which saw its first full year of operation in 2001. The Public Educa-

Highlights of  
FPPC  
Accomplish-  
ments and  
Activities in  
2001  
(cont.)

tion Unit also assisted in the production, editing and distribution of numerous new printed and on-line educational publications for public officials and members of the public around the state.

— **Major court cases.** The Commission and its Legal Division attorneys played a major role in defending the Political Reform Act in a number of significant court cases in 2001. In one such case, United States District Court Judge Frank Damrell upheld the constitutionality of a Proposition 34 provision banning a lobbyist from making contributions to elected state officers or candidates for elected state office, if that lobbyist is registered to lobby the agency for which the candidate is seeking election, or the agency of the elected state officer. The judge ruled against a lobbyist group that filed suit to block the provision and in favor of arguments by the Fair Political Practices Commission and the state Attorney General's office, which were both named as defendants in the suit.

— **Filing duties.** The Political Reform Act mandates a *decentralized* system that requires most statements of economic interests to be filed with individual government agencies. But many of these personal financial statements do come to FPPC headquarters, where in 2001 staff reviewed, logged and filed 21,267 of the forms from officials throughout California.

— **Improving public access.** In early 2001, the FPPC consolidated its office space at its headquarters building in downtown Sacramento. The move, coordinated by the FPPC's Administration Division, improved the efficiency of staff operations and provided a new public reception area and public document viewing room. The document room, maintained by the Public Education Unit, offers a wide selection of FPPC publications and a computer for web access.



Dixie Howard, right, an FPPC filing officer programs manager, conducts one of the FPPC's many seminars and training sessions for state and local filing officers. Assisting at the computer is Emily Bowden, an FPPC staff services analyst.

## *FPPC Public Education Unit Receives Two Awards For 2001 Accomplishments*

In its first year of operation, the Public Education Unit of the Fair Political Practices Commission received two top awards from the State Information Officers Council (SIOC) – the statewide organization of information officers and publications professionals in California state government. The recognition came in SIOC's annual awards competition to recognize excellence in state government communication.

The Public Education Unit was established with a special budget allocation approved by the state Legislature and the Governor. The unit's mission includes producing publications, web-based information and other projects aimed at helping public officials and the general public better understand the Political Reform Act's complex disclosure and reporting laws.

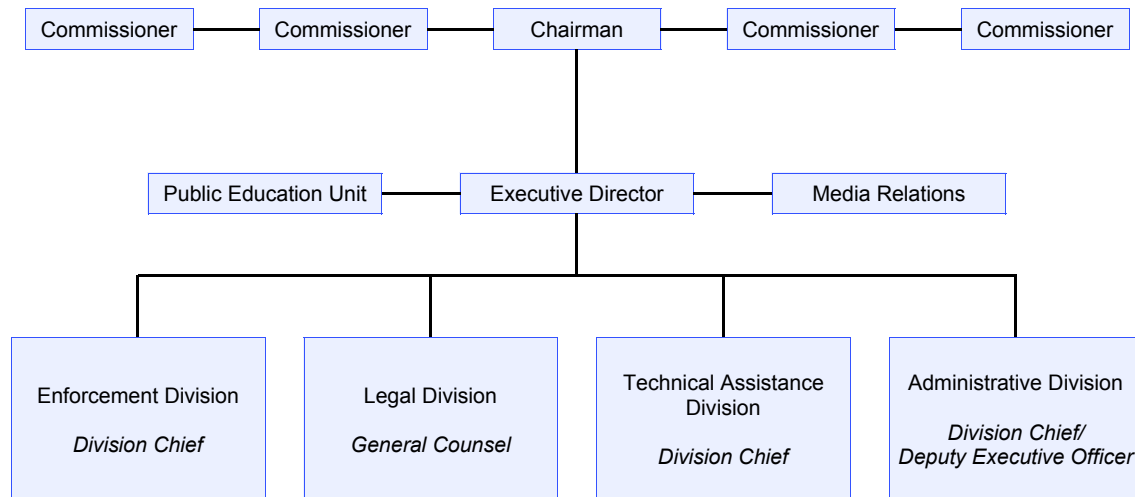
In 2001, its first year of operation, the unit distributed thousands of educational publications to public officials across the state, and it coordinated the launch of the FPPC's new and greatly expanded web site, [www.fppc.ca.gov](http://www.fppc.ca.gov). The unit's budget also funds the FPPC's popular toll-free advice line for public officials—1-866-ASK-FPPC.



In the awards competition, the unit received a Gold Award for its *FPPC Resource Directory and 2001 Annual Report*. Over 1,500 copies of this publication, which provides a detailed overview of the FPPC and its services, have been distributed to public officials and members of the public across the state. A second publication, *A Reporter's Guide to the FPPC*, also received a Gold Award. Both publications, as well as many other educational tools, are available on the FPPC web site. For more details on the 2001 activities of the Public Education Unit, please see page 18.

The four-member unit is staffed by FPPC publications editor Jon Matthews, political reform consultant and Internet specialist Hal Dasinger, information systems analyst Jason Painter and editorial assistant John Symkowick.

## Fair Political Practices Commission Organization Chart April 2002



### ***Commission management and staff organization***

At its January 2001 meeting, the Commission adopted a Statement of Governance Principles describing the respective duties of the chairman, commissioners and executive director. (See Appendix I on Page 27.)

Generally, the chairman serves as the presiding officer of the Commission and the senior manager of the agency. The executive director serves as the chief operating officer and senior administrator of the organization. The commissioners set policy and make substantive decisions through the monthly Commission meeting. The chairman also acts in the name of the Commission between monthly meetings. Under the joint leadership of the chairman

and the executive director, the Fair Political Practices Commission staff is organized into four major divisions:

- ◆ *Legal*
- ◆ *Enforcement*
- ◆ *Technical Assistance*
- ◆ *Administration*

In addition, the Commission has a *Public Education Unit* that reports to the executive director and chairman.

The executive staff of the Commission is composed of the chairman, executive director, division chiefs, media director, the publications editor and the executive fellow.



## About the Political Reform Act of 1974

The Fair Political Practices Commission was created by the Political Reform Act of 1974, passed overwhelmingly by California voters as Proposition 9.

The Act, which became a model for similar laws elsewhere in the nation, regulates activities in three diverse areas:

- ◆ campaign finance, including use of public funds for campaign activities;
- ◆ conflicts of interest, including gift and honoraria limits and “revolving door” restrictions on public officials beginning new jobs in the private sector; and
- ◆ lobbying at the state level.

The Act’s requirements, as approved by the voters, reach to every corner of the Golden State. An estimated 100,000 entities and individuals are subject to the Act’s requirements. This includes, during any given year, the 5,000 to 10,000 state and local candidates who may be seeking office or re-election. Political committees, including ballot measure committees and general-purpose political action committees, also fall under the Act.

The conflict-of-interest requirements of the Act apply to thousands of local government, state and judicial agencies and organizations, each of which, with few exceptions, must have its own conflict-of-interest code.

The Act also imposes registration and disclosure requirements on the many people and groups who lobby state government.



### POLITICAL REFORM INITIATIVE

#### Ballot Title

**FINANCIAL DISCLOSURES AND LIMITATIONS AFFECTING POLITICAL CAMPAIGNS, PUBLIC OFFICIALS AND LOBBYISTS—OTHER MATTERS. INITIATIVE.** Requires reports of receipts and expenditures in campaigns for state and local offices and ballot measures. Limits expenditures for statewide candidates and measures. Prohibits public officials from participating in governmental decisions affecting their “financial interests.” Requires disclosure of certain assets and income by certain public officials. Requires “Lobbyists” to register and file reports showing receipts and expenditures in lobbying activities. Creates fair political practices commission. Revises ballot pamphlet requirements. Provides criminal and civil sanctions for violations. Enacts and repeals statutes on other miscellaneous and above matters. Financial Impact: Adoption of this measure will increase state and local costs up to \$500,000 for the 1974–75 fiscal year and from \$1,360,000 to \$3,210,000 for each subsequent fiscal year.

While the Act has been in force for over a quarter-century, its specific provisions have changed dramatically. The Act has been amended more than 200 times since its 1974 passage, including major revisions enacted by the voters as Proposition 34 in the November 2000 statewide election. In some instances the computer age has required the act to be updated, a process that undoubtedly will continue. In 1974, few would have envisioned a candidate using an Internet web page to solicit contributions, or a voter able to access campaign contribution reports from a remote location by using a personal computer and a few clicks of a mouse.

With change a constant, the Commission places great emphasis on educating public officials, candidates, lobbyists and the general public on the requirements of the Act. To further promote compliance, the Act establishes administrative and civil fines for those who violate its provisions. Effective January 1, 2001, the maximum administrative penalty per violation increased from \$2,000 to \$5,000.

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## *The Year in Review — 2001*

### ***Enforcing the law***

**Streamlined enforcement.** In 2001, the Commission and its Enforcement Division expanded and improved three successful, streamlined enforcement programs to expedite the filing of late contribution reports, major donor reports and statements of economic interests. Results strongly indicate that these proactive programs are encouraging increased levels of compliance with the law.

The three programs feature streamlined paperwork and procedures, standardized fine schedules and special outreach efforts to alert filers to approaching filing deadlines.

Disclosure violations that previously may have been prosecuted long after the end of an election cycle now are handled in an expedited manner, providing both the public and the filing community with more timely and relevant action and information.

FPPC investigators pore over many thousands of computer and paper records in their work on these programs.

The streamlined programs were the subject of an article, authored by FPPC staff, in the July 2001 newsletter of the national Council on Governmental Ethics Laws.

Additional highlights of these programs in 2001 include:

— **Major donor streamlined program.** In the major donor expedited program's first year of operation, ending June 2001, the Enforcement Division identified more than \$3 million in unreported contributions made by major donor committees during the 2000 election year. Nearly 800 committees were contacted and made aware of possible reporting duties under the Political Reform Act, and 77 committees were found to have violated the Act.

The streamlined program, initiated in June 2000, contributed to an 83 percent reduction in identified violations between the

first and second semi-annual filing periods during its first year of operation. Key elements of the program are outreach and education, and providing forewarning to affected committees as to when late contribution reporting is required.

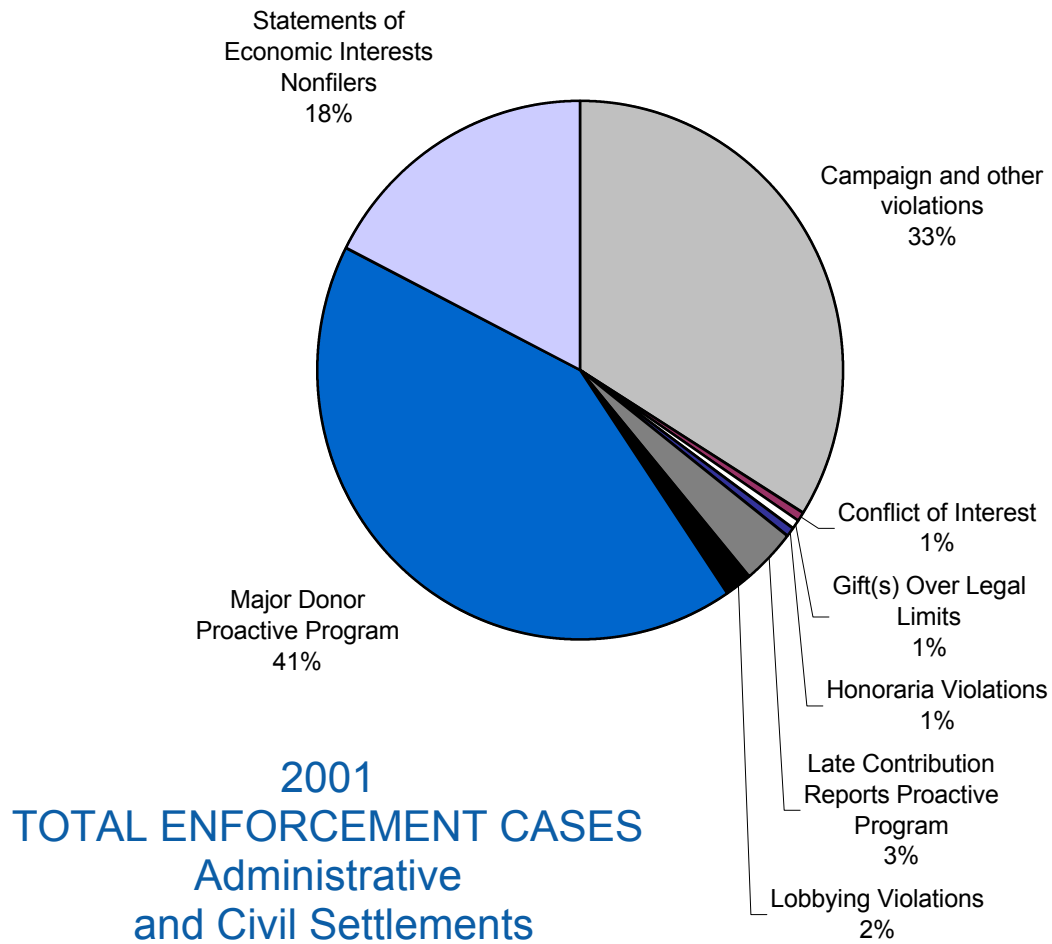
In calendar year 2001, 67 cases were prosecuted under this program.

— **Statements of economic interests program.** The FPPC also has fully implemented a streamlined enforcement program for unfiled statements of economic interests (also known as SEIs or form 700s), a program that has brought far faster processing of such cases. The statements, which list stock holdings, business interests and other personal economic information, are filed by tens of thousands of public officials across the state as required under the Political Reform Act's conflict-of-interest rules.

Results from 2001 indicate that the enforcement program has resulted in significant improvements in compliance by many state and local filers. For example, the program, combined with proactive efforts by the state Legislature, appears to have been highly effective in ensuring required compliance by legislative staff members. In total, the Enforcement Division prosecuted a total of 28 cases against statements of economic interests non-filers during 2001.

In its other enforcement programs, the Enforcement Division adopted new procedures in 2001 to streamline intake of complaints and other procedures.

**Summary of 2001 enforcement activity.** In all of its enforcement programs, including both regular and expedited, the Enforcement Division opened 770 enforcement case files in 2001. The division prosecuted a total of 160 cases, including 158 administrative cases and two civil prosecutions. In the history of the Commission, this annual total was surpassed



### **ADMINISTRATIVE AND CIVIL SETTLEMENTS - 2001**

<b><i>TYPES OF VIOLATIONS:</i></b>	<b><i>Fine</i></b>	<b><i>No. of Cases</i></b>	<b><i>Case %</i></b>	<b><i>Fine %</i></b>
Campaign and other violations	\$572,650	54	33%	84%
Conflict of Interest	\$8,750	1	1%	1%
Gift(s) Over Legal Limits	\$2,500	1	1%	.5%
Honoraria Violations	\$3,000	1	1%	.5%
Late Contribution Reports Proactive Program	\$11,500	5	3%	2%
Lobbying Violations	\$14,000	3	2%	2%
Major Donor Proactive Program	\$39,400	67	41%	6%
Statements of Economic Interests Nonfilers	\$26,200	28	18%	4%
<b><i>Total</i></b>	<b><i>\$678,000</i></b>	<b><i>160</i></b>	<b><i>100%</i></b>	<b><i>100%</i></b>



Enforcement Actions  
Summary of Fines Assessed and Imposed  
1975 through 2001

<b>Year</b>	<b>Administrative Actions</b>				<b>Civil Judgments</b>	
	<b>Cases</b>	<b>Fines Assessed</b>	<b>Fines Waived</b>	<b>Fines Imposed</b>	<b>Cases</b>	<b>Fines Assessed</b>
1975	0	\$0	\$0	\$0	0	\$0
1976	11	\$1,400	\$500	\$900	0	\$0
1977	1	\$4,000	\$0	\$4,000	0	\$0
1978	1	\$4,500	\$0	\$4,500	2	\$25,250
1979	8	\$6,820	\$0	\$6,820	2	\$6,500
1980	18	\$79,600	\$35,950	\$43,650	1	\$1,000
1981	5	\$14,600	\$3,000	\$11,600	2	\$5,000
1982	10	\$57,500	\$10,750	\$46,750	0	\$0
1983	5	\$71,100	\$12,500	\$58,600	1	\$1,250
1984	15	\$72,200	\$4,000	\$68,200	0	\$0
1985	7	\$24,750	\$5,000	\$19,750	1	\$9,000
1986	12	\$37,400	\$1,250	\$36,150	0	\$0
1987	22	\$97,900	\$6,000	\$91,900	0	\$0
1988	34	\$154,600	\$10,500	\$144,100	3	\$367,500
1989	35	\$182,250	\$0	\$182,250	0	\$0
1990	36	\$219,000	\$0	\$219,000	0	\$0
1991	39	\$463,550	\$0	\$463,550	3	\$235,000
1992	44	\$276,450	\$0	\$276,450	3	\$415,000
1993	36	\$833,050	\$0	\$833,050	1	\$772,000
1994	30	\$656,800	\$0	\$656,800	1	\$85,000
1995	51	\$1,698,050	\$0	\$1,698,050	0	\$0
1996	56	\$1,026,221	\$0	\$1,026,221	0	\$0
1997	54	\$912,650	\$0	\$912,650	2	\$47,000
1998	96	\$1,190,710	\$0	\$1,190,710	7	\$95,490
1999	63	\$968,500	\$0	\$968,500	5	\$309,900
2000	174	\$554,037	\$0	\$554,037	1	\$9,100
2001	158	\$595,000	\$0	\$595,000	2	\$83,000
<b>TOTALS</b>	<b>1,021</b>	<b>\$10,202,638</b>	<b>\$89,450</b>	<b>\$10,113,188</b>	<b>37</b>	<b>\$2,466,990</b>

## ***Enforcing the law (cont.)***

only by the total of 174 cases in 2000.

In 2001, the Commission assessed \$678,000 in administrative and civil fines, compared to a total of \$563,000 in 2000.

Enforcement Division staff members also played key roles in providing assistance in cases that resulted in criminal investigations and prosecutions for violations of the Political Reform Act. In such cases, the actual prosecution is done by the local district attorneys or the state Attorney General, as the Commission has no criminal enforcement powers under the Political Reform Act.

Enforcement Division staff members began or continued work on numerous other cases that are being presented to the Commission for final resolution in 2002.

## ***Reaching out to inform the public and regulated officials***

The Fair Political Practices Commission placed increased emphasis in 2001 on its outreach and education programs for public officials, candidates and other persons with duties or obligations under the Political Reform Act. This was especially the case in the area of conflicts of interests and statements of economic interests, where staff members were busy conducting training sessions and seminars at all levels of California government.

On all subjects, Technical Assistance Division staff conducted a record combined 189 outreach sessions, seminars and workshops during the year.

Outreach and education programs also focused on the major changes to the Political Reform Act brought about by voter passage of Proposition 34. While Proposition 34's changes are major, the Act has been amended more than 200 other times since its passage by voters in 1974. These changes to the complex law require constant updating of FPPC training programs and materials, and ongoing education programs for the many thousands of affected persons.

**Telephone advice.** The Commission's Technical Assistance Division staff members handled approximately 50,000 telephone calls — an average of over 4,000 per month — seeking advice, guidance and other assistance. Many calls sought advice about new, Proposition 34-related changes to the Political Reform Act.

The busiest month was January, and the busiest hour of the day typically was between 2 p.m. and 3 p.m.

The FPPC's toll-free advice number, **1-866-ASK-FPPC**, saw its first full year of operation in 2001 and proved to be a resounding success. Over 21,000 of the approximately 50,000 calls received during the year were placed via the toll-free number from all areas of California.

The toll-free line began operating on August 17, 2000. During all of 2001, the line was extensively promoted by the FPPC through publications, seminars, the agency's web site and other means.

Public officials, local government clerks, candidates, filing officers and others who have obligations under the Political Reform Act are encouraged to call toll-free for advice Monday through Friday. After-hours callers are invited to leave a message and receive a return call the following day.

The toll-free line is funded through the budget of the FPPC's Public Education Unit.

### **Toll-free Advice Line: 1-866-ASK-FPPC**

Public officials, local government filing officers, candidates, lobbyists and others with obligations under the Political Reform Act are encouraged to call toll-free for advice on issues including campaign contributions and expenditures, lobbying and conflicts of interest. FPPC staff members answer thousands of calls for telephone advice each month. The FPPC provides written advice in response to more complicated questions.



## Informing and educating (cont.)

During most periods, three or four Technical Assistance Division consultants staff the advice line. But during peak periods of political or disclosure filing activity, that number can rise to as many as seven consultants, or nearly 10 percent of the entire FPPC staff. While most callers receive a quick answer to their questions, new or particularly complicated questions must be researched or referred to the Legal Division for more extensive analysis.

**Filing officer training.** The Commission's staff traveled throughout the state in 2001 as part of a targeted program to systematically train filing officers on their duties under the Political Reform Act.

Technical Assistance Division staff members conducted 63 on-site outreach sessions on filing rules and practices for statements of

economic interests, work that spanned 40 cities, 10 county offices, eight state agencies and five multi-county agencies. The busy staff members conducted another 68 outreach sessions on campaign filing rules, journeying to 56 cities and 12 county offices.

Launched in 2000 using a targeted funding increase, the programs have received many positive responses from recipients of the training and many requests for follow-up visits.

Many more filing officers are still in need of training. As part of its wide-ranging efforts to educate and promote compliance with the provisions of the Act, the Commission has made a major commitment to sending its outreach teams into the field.

Under the Act, city and county clerks are required to monitor and receive original campaign statements and statements of economic interests (form 700s). Individuals in state agencies and multi-county agencies also receive statements of economic inter-

*Dear Chair Getman:*

*"I wanted to forward to you my department's positive response to the recent workshop that we had with Larry Barkhouse and my encouragement that this program continue.*

*"Having attended FPPC workshops before, my staff and I felt we knew what to expect, but we were pleasantly surprised at how much more we learned. When you are participating in a larger workshop, the questions and concerns are not necessarily your own, and therefore can be inconsequential to you or your staff. But when the workshop is tailored to your city and department, we were able to ask Larry questions that were relevant to our needs and circumstances. He, in turn, was able to customize his workshop to our immediate needs.*

*"We were especially thrilled when he noted that our Filing Officers' Campaign Statement logs were the best he had seen yet! He then went through our most recent campaign files and really worked hard to find an error!*

*"His review and training were extremely helpful. So, on behalf of my staff, I encourage the FPPC to continue this program so that other towns, cities and counties can have the same opportunity we have experienced."*

*-- Jeri L. Stately, MMC, City Clerk, City of Irvine*

ests. These personnel are required to track statements that are not filed on time, review statements, and keep logs of statements filed.

In May 1998, the California State Auditor issued a report stating that the FPPC should provide individual training for filing officers. The audit concluded that there is a risk that filing officers may not properly carry out their duties without adequate oversight and training.

The FPPC subsequently received funding to hire new staff to provide one-on-one training in the convenience of the filing officer's own office. The two-hour visits give filing officers ample opportunity to ask questions about issues that uniquely affect their duties.

The success of the outreach program is twofold: filing officers receive the training they need to satisfactorily carry out their duties under the Act, and the FPPC receives feedback from filing officers and the regulated community.

The program continues in 2002.

**Seminars and workshops.** In addition to their training outreach visits, the Commission's Technical Assistance Division staff conducted 51 seminars on a variety of subjects in 2001, with a total audience of approximately 2,000 persons. This number, too, represents just a fraction of those who need instruction on fulfilling their obligations under the Political Reform Act.

Seminar leaders use computer-based, multimedia tools to enhance their presentations and emphasize key points to their audiences.

The content of campaign-related seminars was changed to explain Proposition 34 rule changes.

**Working with other organizations to educate and inform.** The above seminar total does not include the many workshops, seminars and speaking sessions in which FPPC commissioners and staff from other divisions participated.

The Legal Division staff appeared at a

number of major events, including a conflict-of-interest seminar and panel sponsored by the League of California Cities. A conflict-of-interest slide presentation is now available to everyone on the FPPC's web site. Commissioners and Legal Division staff also appeared before many other audiences on subjects including land use decision-making, the impacts of campaign finance reform on business, Proposition 34, new FPPC regulations, and independent expenditures.

Sponsors of the events included the 15th annual University of California, Los Angeles, Land Use Law and Planning Conference; the County Counsels' Association of California; the League of California Cities; the Los Angeles Ethics Commission; Stanford Law School, and the national Council on Governmental Ethics Laws (COGEL).

Commission Chairman Karen Getman, as part of her emphasis on outreach, appeared at many of these events, as did FPPC General Counsel Luisa Menchaca. Other commissioners also actively participated in outreach efforts. For example, Commissioner Gordana Swanson delivered a presentation to a meeting of chapter board members of the National Women's Political Caucus.

Working with the state Attorney General's office, Legal Division and Public Education Unit staff helped totally revise the on-line ethics training for state officials.

The Commission participated in COGEL's 2001 annual conference in Lexington, Kentucky, with Chairman Getman serving as the moderator of a key discussion panel.

Enforcement Division personnel also participated in outreach efforts, including presentations for district attorneys.

**New web site.** The Commission's new and vastly expanded web site, [www.fppc.ca.gov](http://www.fppc.ca.gov), was launched in April 2001. The site provides a wealth of information, including monthly meeting agendas and supporting documents, publications and forms. Featuring an easy-to-use and accessible text-based format, the site also offers the full text of the Political Reform Act and FPPC regulations. The web site is coordinated by the

## Informing and educating (cont.)

FPPC's Public Education Unit but receives contributions and support from all FPPC divisions, including information technology personnel.

New or updated material was added to the web site on a near-daily basis during 2001. Interactive forms, news and litigation updates, press releases and on-line versions of educational booklets and fact sheets are just a few of the offerings. Documents easily can be downloaded for printing or future reference. A feedback tool is included for comments and suggestions.

Proposition 34 charts and fact sheets are available on the site, which has been organized to make it easy to find information by category. The site's search tool has been enhanced, a project that continues in 2002.

The "What's New at FPPC" section of the site is frequently updated to make the latest developments relating to the Political Reform Act and the agency easy to find.

The FPPC discontinued its little-used fax-on-demand document service during 2001. All items formerly available via fax-on-demand — including FPPC forms, publications, agendas and agenda item memos — are available on the web site in a user-friendly format. The Public Education Unit received little negative reaction to the end of the fax-on-demand service but generally positive comments about the new web site.

**Public education and outreach.** The FPPC's new Public Education Unit saw its first full year of operation in 2001. The unit completed or began numerous projects, including:

- ♦ Assisting in the editing, revision and simplification of forms, instructions, fact sheets and other FPPC publications.
- ♦ Maintenance of a public document viewing room on the sixth floor of FPPC headquarters in Sacramento.
- ♦ Editing, layout and a complete redesign

of the *FPPC Bulletin*, the agency's venerable quarterly newsletter. Content of the *Bulletin* was enhanced and expanded to include a broader variety of agency news, educational stories and columns and graphics. Plans were made to begin distributing the *Bulletin* by e-mail during early 2002.

- ♦ Providing a public repository of city, county and multi-county agency conflict-of-interest codes, as well as city and county campaign finance ordinances.
- ♦ Assisting in the production of numerous new or revised educational publications, and expansion of in-house design and publication production capabilities.
- ♦ Coordination of the FPPC's new web site, [www.fppc.ca.gov](http://www.fppc.ca.gov), as well as ongoing expansion of the site and daily updating of on-line information.
- ♦ Authorship or editing of articles appearing in outside publications, including *The Guardian* of the Council on Governmental Ethics Laws, a nationwide association of state federal ethics and campaign finance agencies.

Tens of thousands of copies of educational publications were distributed. New or revised educational publications produced in 2001 included:

- ♦ A booklet entitled, *Your Duty to File — A Basic Overview of State Economic Disclosure Law and Reporting Requirements for Public Officials*.
- ♦ Brochures explaining the general mission of the FPPC and the FPPC's enforcement and investigation procedures in plain language.
- ♦ A 100-page *FPPC Resource Directory and 2000 Annual Report*, detailing the agency's services and structure.
- ♦ A booklet explaining how public officials, candidates and others with duties under the Political Reform Act can obtain advice from the FPPC, and the types of advice services offered.
- ♦ A revised and expanded booklet: *Can I Vote? An Overview of Public Officials' Ob-*



*ligations Under The Political Reform Act's Conflict of Interest Rules.*

- ◆ A booklet entitled *A Reporter's Guide to the FPPC*.

**Media Relations.** The passage of Proposition 34 and the Commission's heavy workload to implement the measure ensured a high volume of calls from reporters throughout 2001. This pace intensified during the weeks preceding elections, and when major enforcement case resolutions or FPPC-related court actions were in the news.

The media director, with help from other staff members, responded to thousands of press inquiries during the year. Prior to elections, it was not uncommon for the agency to receive dozens of calls from media representatives per day. As always, agency staff endeavored to respond to each question in an accurate and timely manner.

Press releases and news advisories were issued throughout the year — and posted on the FPPC web site — in order to inform the media of Commission activities and business, as well as special news and events.

The releases included regularly issued monthly meeting agenda notices and highlights. In 2001, staff also began issuing

"enforcement summary" press releases at the close of Commission meetings to provide information (including fines assessed) about concluded enforcement cases.

Major media outreach efforts were made for several special programs and activities, including the implementation of Proposition 34, expedited enforcement programs, court cases and other FPPC activities.

The media director also coordinated outreach visits to the editorial boards of various publications and interviews with numerous reporters and editors.

The media director, part-time student media assistants and other staff assisted the Public Education Unit in the production and distribution of a new booklet aimed at answering reporters' common questions about the types of public information available from the FPPC. The booklet, *A Reporter's Guide to the FPPC*, also contains the FPPC's press policy. It is available for download from the press center on the FPPC web site.

### ***Statement of economic interests filing duties***

The Political Reform Act requires many state and local public officials and employees

*The California Supreme Court today upheld the constitutionality of the "sender identification" requirement of the Political Reform Act, reinforcing the court's earlier decision in the 10-year old case of Griset v. FPPC.*

*"We are very pleased with the Supreme Court's opinion today, which leaves intact its 1994 ruling upholding the sender identification provision of the Political Reform Act," said Commission Chairman Karen Getman. "There no longer can be any doubt that the FPPC stands on firm constitutional ground in requiring candidates to publicly identify themselves on campaign literature sent out by the candidates' own committees."*

*"The FPPC will continue to vigorously enforce this critical component of the Political Reform Act's campaign disclosure requirement," she added.*

— Excerpt from May 21, 2001,  
Fair Political Practices Commission  
press release

## ***Filing duties (cont.)***

to disclose certain personal financial holdings. Many tens of thousands of public workers, ranging from the governor to local department heads to board and commission members, are required to publicly disclose their personal financial interests on disclosure reports known as "statements of economic interests."

The Act establishes a complex, *decentralized* system of managing this disclosure in which each state and local government agency is required to adopt and implement a separate conflict-of-interest code. The administration of this decentralized system is divided between the Fair Political Practices Commission and responsible officials at more than 7,000 state and local agencies.

Employees and officeholders at virtually all state and local agencies, as well as candidates for public office, use the Fair Political Practices Commission's *form 700* to file their statements of economic interests. The statements are sometimes informally referred to as "SEIs" or "700s."

Increased effort was made in 2001 to further simplify the form 700 and its instructions. The form is available in an interactive, on-line version on the FPPC web site, [www.fppc.ca.gov](http://www.fppc.ca.gov).

At FPPC headquarters, staff received, reviewed, logged and filed 21,267 statements of economic interests from officials throughout California in 2001.

However, most statements of economic interests are not filed directly with the FPPC. Rather, they are filed with the agency's filing officer or filing official, or, in the case of candidates, with election offices or local clerk offices. In some cases, the agency will forward the original form to the FPPC while retaining a copy.

Once filed, a statement of economic interests is a public document and must be made available to the public on request.

In 2001, Commission staff provided 3,012 copies of these public documents to requestors.

As part of its wide-ranging efforts to incorporate new technology, the FPPC is studying the feasibility of on-line filing of statements of economic interests as well as a system of on-line access to the documents.

## ***Interpreting the law: Proposition 34***

The Commission, its Legal Division and other staff devoted substantial time and resources in 2001 to implementation of the major campaign law revisions of Proposition 34. For example, an estimated 90 percent of the Commission's 2001 regulatory work schedule was related to Proposition 34.

The Commission and its staff began work immediately upon passage of the measure, giving high priority to seeking public input. During 2001, 14 interested persons' meetings were conducted on proposed regulatory changes.

The Commission created, amended or eliminated dozens of regulations, provided extensive written and oral advice to candidates and committees, modified forms, coordinated with other agencies, and developed and conducted numerous outreach and educational initiatives.

On the Legislative front, the Commission supported key elements of SB 34, which amended provisions of Proposition 34 relating to spokesperson disclosure, member communications and campaign disclosure.

The Commission is continuing its Proposition 34 work in 2002, including implementation of complex issues such as advertising disclosure and membership communication.

Highlights of Proposition 34-related actions involving interpretation of the law include:

— **Laying the groundwork.** Shortly after the November 2000 election, staff began developing work plans and taking other preliminary actions, including preparing "Proposition 34: Changes in California Campaign Finance Law," a chart identifying areas of campaign finance law affected by the passage of Propo-



## *Interpreting the law (cont.)*

sition 34, and "Prop. 34 Highlights," a memorandum detailing specific dollar limits on individual/small contributor committees, new disclosure requirements and voluntary spending limits. The chart is posted on the agency web site.

— **Seeking public input.** The FPPC hosted an extensive number of interested persons meetings, at which the agency received public comment prior to adoption of new regulatory language. The agency web site and media announcements were used to help publicize the meetings. Since the FPPC's initial Proposition 34 meeting on December 7, 2000, Legal Division staff held 14 interested persons meetings on a variety of related issues, including transfers; carryover of funds; making, receiving, accepting, and returning contributions and other payments; communications to members of an organization; treatment of outstanding debt and personal loans; legal defense funds; contributions to minors; voluntary expenditure ceilings; paid spokesperson disclosure; termination of committees; review of campaign disclosure forms; affiliated entities/aggregation of contributions; and lobbyist contributions.

— **Regulatory action.** Proposition 34 repealed most of the provisions of Proposition 208, a 1996 campaign finance ballot measure, and repealed some of the provisions of Proposition 73, a ballot proposition approved in 1988. In response, the FPPC repealed 11 Proposition 208 regulations and four Proposition 73 regulations, and amended five Proposition 73 regulations.

Following these initial actions involving 20 then-existing regulations, the Legal Division drafted numerous emergency regulations and amendments that were subsequently adopted by the Commission. Most significant were regulation 18404.2 Termination of Pre 2001 Committees of Non-Officeholding Candidates (later replaced by regulation

### *Proposition 34 Regulatory Interested Persons Meetings Held in 2001*

(At FPPC headquarters unless specified; multiple meetings held on some dates.)

#### **December 6, 2001**

Section 85312: Communications to Members of an Organization

#### **October 18, 2001**

Lobbyist Contributions: Section 85702 10:00 a.m.

Spokesperson Disclosure: Section 84511 and Form 511

#### **August 29, 2001**

Section 85311: Affiliated Entities Aggregation of Contributions

#### **August 15, 2001**

Section 85312: Communications to Members of an Organization

#### **July 18, 2001**

One-Bank-Account Rule and Related Issues, Including Section 85317, Redesignation Issues, Primary vs. General Election Issues, and Termination of Committees

#### **June 22, 2001**

Revived Provisions of Proposition 208 Sections 84501-84510: Advertisement Disclosure

Proposition 34 Section 84511: Paid Spokesperson Disclosure

#### **May 30, 2001**

Section 85307: Loans and Extensions of Credit

Voluntary Expenditure Ceilings

#### **May 11, 2001 (Los Angeles)**

Membership Communications; Return of Contributions; Legal Defense Funds; Contributions by Minors

#### **May 9, 2001**

Communications to Members of an Organization

Treatment of Outstanding Debt, Officeholder Expenses, And Pre-2001 Loans and Contributions

#### **April 5, 2001**

Transfer, Carryover and Attribution Issues Contributions and Other Payments

## *Interpreting the law (cont.)*

18404.1); 18428 Reporting by Affiliated Entities; 18503 Small Contributor Committees; 18536 Transfer and Attribution of Contributions; 18543 Lifting of Voluntary Expenditure Limits; and 18573 Provisions of Proposition 34 Applicable to Local Jurisdictions (no longer operative).

Reporting regulations adopted on an emergency basis include: regulations 18421.4 Reporting Cumulative Amounts for State Candidates and State Recipient Committees; 18539 Online Disclosure of Contributions; 18539.2 Reporting Payments Pursuant to Government Code Section 85310; 18542 Notification of Personal Contributions in Excess of the Voluntary Expenditure Limits; 18543 Lifting of Voluntary Expenditure Limits; and 18550 Online Disclosure of Independent Expenditures. (Regulations 18421.4, 18539, and 18550 are no longer operative; the remainder have been adopted as permanent.)

Other regulations permanently adopted include 18530.4 Legal Defense Funds; 18531.6 Treatment of Debts Outstanding After an Election; 18540 Voluntary Expenditure Ceilings; and 18570 Return of Contributions with Insufficient Donor Information.

An up-to-date directory of regulations can be found on the web site.

The FPPC, including Technical Assistance Division and Legal Division staff, revised several campaign disclosure forms during the regulatory process. These include Forms 410, 450, 460, 461, 470, 496, 497, and 501. Staff plans to review the forms and regulations to determine if changes are needed for future elections.

— **Formal opinions.** After receiving extensive input from the public and involved parties, the Commission issued two formal opinions in 2001 interpreting several provisions of Proposition 34:

*Pelham, LeeAnn, Executive Director, Los Angeles City Ethics Commission*  
(2001) 15 FPPC Ops. 1

1. A Los Angeles campaign ordinance prohibiting the deposit of campaign contributions until all donor information has been obtained does not conflict with Government Code section 85700 ordering recipients of contributions to return the contribution within 60 days if all donor information has not been obtained. The Los Angeles ordinance does not conflict with the Act because it does not impede compliance with the Act.

2. An elected state officer or candidate for elective state office may establish a legal defense fund under Government Code section 85304 regardless of the individual's status as a local candidate or officeholder. However, if the individual establishes a legal defense fund under the Los Angeles ordinance, that particular defense fund will be subject to the rules of that ordinance.

3. Under certain circumstances, the presumption that contributions received from minors are actually from the child's parents under Government Code section 85308 may be overcome and a minor may be a contributor in his or her own right.

4. The City of Los Angeles may deposit laundered funds into its general fund when the action is brought under its local campaign finance law. The City of Los Angeles ordinances are not preempted by state laws including Government Code section 85701 concerning the distribution of laundered funds because the state law only applies to violations of the state statutes.

*Olson, Lance H., Esq., Counsel for the California Democratic Party*  
(2001) 15 FPPC Ops. 13

Local Los Angeles ordinances requiring the political parties to disclose "member communications" prior to an election are preempted by the Political Reform Act because they impose "additional or different" filing requirements on the state party committees in areas of statewide concern.

— **Proposition 34 advice letters.** During 2001, Legal Division staff members re-

searched and authored 35 Proposition 34-related advice letters in response to questions submitted by candidates and others.

— **Litigation.** The Legal Division also was involved in defending Government Code section 85702, which bans lobbyists from making contributions to state candidates they are registered to lobby (see general litigation section).

— **Proposition 34-related legislation.** The Commission, assisted by the Legal Division, recommended some of the language for SB 34, Ch. 241 of 2001, which amended Proposition 34, and the agency incorporated those provisions in its implementation program.

— **Coordination with other agencies and groups.** The Legal Division staff held weekly meetings to discuss Proposition 34 issues and needed regulatory language. Division staff coordinated their efforts with those of the staffs of the Secretary of State and the Franchise Tax Board, as well as FPPC Enforcement and Technical Assistance division chiefs and staff members.

The FPPC frequently sought comment from associations and other groups regarding proposed regulations and other issues. For example, the League of California Cities has been a constant participant in the Commission's efforts to interpret and refine the conflict-of-interest rules of the Political Reform Act, and has assigned attorneys to participate in the Commission's implementation of Proposition 34. By working with the League and other associations, the Commission gained the involvement of representatives from a variety of public entities throughout the state.

Others contributing to the regulatory process include The League of Women Voters, Common Cause, members of the California Political Attorneys Association, and attorneys from individual law firms.



*FPPC Assistant General Counsel John Wallace addresses the 2001 League of California Cities annual convention on the topic of conflicts of interest.*

## **Interpreting the law: Other issues**

**General advice letters.** On all subjects in 2001, the Legal Division, coordinating closely with the Technical Assistance Division, wrote 306 letters of advice to those with obligations or duties under the Political Reform Act. These letters covered a broad range of subjects, including conflicts of interest, campaign reporting, revolving door and other issues.

**Litigation.** The Commission and its Legal Division attorneys, with the assistance of the state Attorney General, defended the Political Reform Act in a number of significant court cases. Some highlights of the year include:

*California ProLife Council Political Action Committee et al. v. Scully et al.*

The lengthy and complex litigation surrounding Proposition 208 came to an end in

## *Interpreting the law (cont.)*

2001 with the passage of Proposition 34. The first challenge to Proposition 208 was filed a week after voters approved the campaign finance reform ballot initiative in the November 1996 general election. Four other lawsuits followed early in 1997. These five lawsuits were consolidated in 1997 before Lawrence K. Karlton, Chief Judge Emeritus of the United States District Court for the Eastern District of California.

A three-week trial was held in 1997, after which Judge Karlton entered a preliminary injunction against enforcement of the measure. The Ninth Circuit Court of Appeals directed the district court to conduct a second trial which was held before Judge Karlton in July 2000. The court deferred final judgment on the merits of plaintiffs' claims, after learning that Proposition 34 would render the case moot if approved by the voters in the upcoming election. The new legislative ballot measure would repeal nearly all of the provisions that had been challenged by plaintiffs.

When Proposition 34 was approved and went into effect, the district court dismissed four of the Proposition 208 lawsuits as moot, and the parties settled the plaintiffs' claims for attorneys' fees in those cases. The court issued a permanent injunction against the enforcement of provisions of Proposition 208 relating to slate mail and decided plaintiffs' remaining claim for attorneys' fees. That decision concluded nearly five years of litigation.

### *Daniel Griset et al. v. Fair Political Practices Commission.*

When the year began, this 10-year-old challenge to the Act's sender identification provisions was pending before the California Supreme Court for the second time. The high court heard oral arguments on March 7, 2001, and handed down its opinion on May 24. A unanimous court upheld the constitutionality of Government Code section 85304, which it had also sustained years before against a challenge by the same plaintiff.

The court concluded that, once its first decision had become final, the plaintiff could not revive his original lawsuit and effectively seek a second appeal in the same action. The case was remanded to the trial court, which entered judgment in favor of the FPPC on February 21, 2002.

### *California ProLife Council PAC v. Karen Getman et al.*

The plaintiff brought this action in 2000 against the FPPC, the Attorney General, and the Sacramento County District Attorney, in U.S. District Court for the Eastern District of California. The plaintiff sought an injunction barring enforcement of certain of the Act's record-keeping and disclosure provisions relative to ballot measure advocacy. The plaintiff claimed, in part, that ballot measure advocacy was "issue advocacy" that could not constitutionally be subjected to such regulation.

The FPPC joined the Attorney General in a motion to dismiss this and several other claims, and opposed the plaintiff's motion for preliminary injunction. On October 19, 2001, District Judge Frank C. Damrell denied the plaintiff's motion for preliminary injunction, and granted the defendants' motion in part, dismissing seven of the 10 claims in the complaint. The plaintiff dismissed the Sacramento County District Attorney, and the two remaining defendants answered what was left of the complaint.

On January 11, 2002, Judge Damrell heard cross motions for summary judgment on the three claims remaining, and decided the matter in favor of the defendants, entering judgment on January 22, 2002. The plaintiff appealed the final judgment, and the matter was pending in March 2002 before the Ninth Circuit Court of Appeals.

### *Institute of Governmental Advocates, et al. v. FPPC et al.*

On March 6, 2001, the Institute of Governmental Advocates, a trade association for lobbyists, filed a petition for writ of mandate with California's Third Appellate District, asking the court to stay enforcement of Govern-



ment Code section 85702 until a full hearing might be held on a constitutional challenge to that provision. Section 85702 was added to the Act by Proposition 34 to prohibit lobbyists from making contributions to candidates and officeholders the lobbyists are registered to lobby. The court of appeal denied the petition, and the plaintiffs re-filed the action in the U.S. District Court for the Eastern District of California.

On August 24, 2001, District Judge Frank C. Damrell heard cross-motions for summary judgment. On September 17, 2001, Judge Damrell denied the plaintiff's motion and granted judgment in favor of the FPPC. The plaintiff appealed to the Ninth Circuit Court of Appeals but dismissed the appeal a few months later.

#### *Henry F. Ramey v. FPPC*

On April 18, 2001, the plaintiff filed this action in Sacramento county superior court seeking a declaration that the Commission had acted beyond its powers in adopting regulations 18705.1 and 18704.2 during the Commission's Phase Two overhaul of its conflict-of-interest regulations. The new regulations provide that a public official's real property interest is "directly involved" in a governmental decision when any portion of that property lies within 500 feet of property which is the subject of that governmental decision. The plaintiff alleged that the revised regulations reduced the obligations of public officials below a threshold established by statute and governing case law.

The FPPC filed a motion for summary judgment, which was granted on September 25, 2001. Final judgment was entered on October 12, 2001.

#### *Danny L. Gamel et al. v. FPPC*

On September 11, 2001, the Commission adopted the proposed decision of an administrative law judge assessing a penalty of \$8,000 against plaintiffs for making campaign contributions in violation of Government Code sections 84300-84302. The plaintiffs promptly contested the Commission's action by moving for a writ of mandate

in the Fresno County superior court, where the matter remained pending in March 2002.

**Legislation.** In addition to the extensive work involving Proposition 34, the Commission and its staff in 2001 followed a long list of significant legislation involving the Political Reform Act.

The Legislature adjourned on September 15, 2001, for its interim recess. Highlights include the following chaptered bills signed by Governor Davis. Unless otherwise noted, the measures took effect January 1, 2002:

**AB 2** (Alquist) Chapter 901, Statutes of 2001 requires an independent expenditure committee that qualifies as a recipient committee preceding an election for which it has made independent expenditures of \$1,000 or more to file a statement of organization within 24 hours of qualifying as recipient committee.

**AB 696** (Longville) Chapter 917, Statutes of 2001 requires the Secretary of State (SOS) to provide a free method of online and electronic filing of lobbyist and campaign reports required by the Act. The bill requires that the method be available on or before December 31, 2002. Finally, the bill extends by one year, to June 1, 2002, the deadline for a report on the implementation and development of online and electronic filing, and adds a new report due no later than January 31, 2003. The bill appropriates \$600,000 to SOS for these purposes.

**AB 931** (Frommer) Chapter 336, Statutes of 2001 amends the Insurance Code to prohibit travel payments or reimbursements by specified persons to benefit the insurance commissioner.

**AB 1325** (Negrette-McLeod) Chapter 921, Statutes of 2001 expands the definition of payments to influence legislative or administrative action to include payments for the purpose of providing or preparing testimony for certain PUC proceedings.

**SB 34** (Burton) Chapter 241, Statutes of 2001 makes several clean-up changes suggested

## *Interpreting the law (cont.)*

by the Commission and also several substantive changes to Proposition 34. The bill contains Commission-sponsored ballot spokesperson language and subjects political parties' payments for member communications to the same reporting requirements that applied prior to the effective date of Proposition 34. This bill was an urgency measure and became effective immediately when chaptered on September 4, 2001.

**SB 386** (Johnson) Chapter 79, Statutes of 2001 requires the Secretary of State, in rejecting an online or electronic filing, to notify the filer by electronic mail of the reason for rejection using plain, straightforward language and avoiding technical terms, so that the meaning will be easily understood.

**SB 412** (Vasconcellos) Chapter 927, Statutes of 2001 amends the Elections Code to create a misdemeanor for candidates, committees, or proponents or opponents of initiatives or referendum measures who deliberately register a domain name for the purpose of directing a person away from the web site of a competing candidate or measure, or for the purpose of preventing the competing candidate or measure from acquiring a desired domain. This chapter also extends the existence of the Bipartisan Commission on Internet Political Practices to September 30, 2002, and requires that commission to report to the Legislature by that date.

## *Administration*

The Administration Division continued to efficiently perform all the many services necessary to keep the agency functioning on an increasingly lean budget. Administrative service, personnel functions, computer network operation, public reception, purchasing and the in-house printing of tens of thousands of copies of publications, forms and other docu-

ments were just a few of the daily tasks accomplished.

Major Administration Division initiatives in 2001 included a reorganization of office space in the FPPC's longtime headquarters building in downtown Sacramento. The move, accomplished in early 2001, gives the agency a much larger and more convenient public reception area, a public document viewing room and an FPPC resource library. The FPPC continues to occupy space on just three floors of the building, but with a more efficient and coordinated arrangement.

## *Commission on Internet Political Practices*

Few would have imagined, when the Political Reform Act was approved in 1974, how computers and the Internet could transform the political scene.

In recognition of the issues raised by the modern Internet, the Bipartisan California Commission on Internet Political Practices was created by AB 2720. Appointments to the commission were made by the FPPC and others in 2001 and the commission held its first meeting in early 2002.

Three of the commission's 13 members were appointed by the governor; two each by the Senate Rules Committee, the Assembly speaker, the Secretary of State, the FPPC chairman; and one each by the minority floor leaders of the Senate and Assembly. Members of the commission receive no salary but are reimbursed for attending meetings.

The commission will report its findings and make recommendations to the Legislature on issues concerning campaign activity on the Internet as it relates to the goals and purposes of the Political Reform Act of 1974.

Meeting agendas for the commission are posted on the FPPC's web site.

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## Appendix I

### FAIR POLITICAL PRACTICES COMMISSION STATEMENT OF GOVERNANCE PRINCIPLES

**Adopted by a 5-0 vote of the Fair Political Practices Commission January 12, 2001**

To ensure that the accountability and authority for governance and management of the Fair Political Practices Commission is clearly stated, the Commission adopts the following governing principles to identify and distinguish among the roles of the Commission, the Chairman, and the Executive Director.

#### I. THE COMMISSION

All authority granted by statute to the Commission is retained, except as specifically delegated below. The Commission's statutory duty is to ensure that the Political Reform Act is impartially and effectively administered and implemented. The Commission accomplishes that duty in the following manner:

**A. The Commission proposes, adopts and monitors policies for the FPPC.** This includes:

1. Approving annual policy goals and objectives and evaluating efforts made to meet those goals and objectives.
2. Approving the FPPC's annual budget.
3. Interpreting the Act, through regulations, opinions and such other means as the Commission deems appropriate and lawful.
4. Enforcing the Act, by hearing administrative actions, authorizing civil actions, approving stipulations and such other means as the Commission deems appropriate and lawful.
5. Authorizing actions taken to defend the Act in the courts.
6. Taking positions on legislative efforts to amend the Act.
7. Authorizing issuance of forms and manuals used to comply with the Act.

**B. The Commission ensures the proper management of the FPPC.** This includes:

1. Selecting, evaluating, and, if necessary, taking disciplinary action against the Executive Director.
2. Delegating execution of established Commission policy and strategic objectives to the Chairman and Executive Director and, through the Executive Director, re-delegation to the employees of the Fair Political Practices Commission.
3. Ensuring the integrity of the financial control and reporting system and the FPPC's compliance with all laws governing the agency.

**C. The Commission ensures the proper conduct and governance of the Agency.**

The Commission strives to achieve a governing style that encourages efficient opera-



tions, frank and collegial discussions among members of the Commission, the staff and the public, and fairness to persons whose compliance with the Act is called into question. To this end, each commissioner shall:

1. Comply with the statutory qualification requirements and the Statement of Incompatible Activities adopted by the Commission.
2. Prepare for and govern through the regularly scheduled Commission meetings.
3. Between meetings communicate to staff through the Executive Director or Chairman, who shall ensure that all commissioners receive the benefit of information and advice provided to each individual commissioner.
4. Maintain the confidentiality of all confidential information acquired during the course of the Commission's work.
5. Disclose to the Chairman and Executive Director any relationship or interest that is likely to create an appearance of bias or impropriety in connection with the Commission's work.
6. At all times meet high ethical standards that exceed legal minimums, including refraining from activities that suggest partisanship or other bias by the Commission or individual Commissioners.
7. Apprise the Chairman and Executive Director of all significant activities pertinent to the work of the Commission.

## II. THE CHAIRMAN

The Chairman, appointed by the Governor, is the presiding officer of the Commission. The Chairman:

- A. Provides leadership and guidance to the Commission and staff regarding all aspects of FPPC policy.
- B. Acts on behalf of and in the name of the Commission between meetings of the Commission, including certifying actions taken by the Commission.
- C. Speaks for and represents the Commission in communications with the public, the press and government institutions.
- D. Provides daily oversight of the management of the FPPC.
- E. Reports on a regular basis to the commissioners on actions taken on behalf of the Commission.
- F. With input from commissioners and staff, sets the Commission agenda, prioritizing and scheduling agenda items as appropriate.
- G. Conducts Commission meetings with reference to *Robert's Rules of Order* and other rules adopted by the Commission.
- H. Ensures that the information provided to the Commission is comprehensive, timely, impartial and not unduly burdensome.
- I. Proposes and, with Commission approval implements short term and long term goals and priorities for the Commission and staff.
- J. Reports to the Commission on achievement of its goals and priorities.

### III. THE EXECUTIVE DIRECTOR

The Commission delegates to the Executive Director primary responsibility for the operations and management of the agency. The Executive Director is responsible for ensuring that the Chairman and the Commission are fully informed regarding the operations and management of the FPPC. The Executive Director:

#### A. Acts as the chief of staff of the FPPC.

1. Selects, regularly evaluates and, when necessary, disciplines or dismisses executive staff.
2. With the input of the division chiefs, hires, promotes and, when necessary, disciplines or dismisses other staff.
3. Prepares or approves all office policies, including:
  - a. Work hours/flexible schedules/telecommuting of staff
  - b. Handling of communications within and outside the agency, including e-mail and public records act policies
  - c. Policies affecting all employees, such as the agency dress code
  - d. Creation and maintenance of duty statements for all staff positions
  - e. Training and development of staff
  - f. Handling of special assignments and staff projects
  - g. Productivity and time-keeping systems
  - h. Evaluation policies and reports
4. Receives and coordinates requests from commissioners regarding staff work and, in consultation with the Chairman and division chiefs, prioritizes such requests.

#### B. Acts as the chief budgetary and administrative officer of the FPPC.

1. In consultation with the Chairman, proposes the annual budget to the Commission.
2. Reports regularly to the Chairman and Commission on the status of FPPC finances, administrative actions, goals and achievements.
3. Prepares and submits budget change proposals, requests for deficit funding and other budgetary documents.
4. Retains final approval for all fiscal analyses prepared at the request of the Legislature, Legislative Analyst or Department of Finance.
5. Retains final approval for all expenditures.
6. Authorizes unbudgeted expenditures, when appropriate, up to \$25,000.

#### C. Acts in the name of the Commission with respect to the following statutory duties:

1. Conducts probable cause hearings.
2. Reviews and approves conflict-of-interest codes.
3. Reviews, approves, and signs subpoenas.
4. Executes oaths and affirmations.

## FAIR POLITICAL PRACTICES COMMISSION

To: Commissioners Downey, Knox, Scott and Swanson  
From: Chairman Getman  
Date: October 26, 2001  
Re: Commission planning objectives for calendar year 2002

### Review of 2001 planning objectives

Our planning objectives for the year 2001 were derailed somewhat by the voters' passage of Proposition 34 in November 2000. We had anticipated devoting significant staff resources in 2001 to a major review of the campaign reporting rules. Instead of reviewing our prior rules, however, our resources were redirected toward revising the rules to accommodate the substantive changes made by Proposition 34. In so doing, we put into effect many of the strategies developed for the campaign reporting simplification project. The result has been heightened scrutiny of the statutory basis for each disclosure rule enacted or revised during the course of the year.

We discussed among executive staff whether it would be feasible to return to the campaign reporting project in 2002. The consensus was that it is not. Although we believe that the public and the regulated community would benefit from a thorough review by the Commission and staff of the campaign reporting rules, it would be unfair to candidates and treasurers to propose new reporting rules so soon after implementing the Proposition 34 changes. Moreover, our staff needs more time to observe how election campaigns are run under Proposition 34, and how the new electronic filing requirements of SB 34 work, before proposing substantive changes in the reporting scheme.

Our other planning objectives for 2001 were largely accomplished. Our Public Education Unit was put into full operation and has achieved great success in improving our educational efforts. Our outreach efforts continued and increased, especially in the area of conflicts of interest, where staff conducted numerous training sessions at all levels of government. We expanded and improved our expedited enforcement programs for late contribution reports, major donor reports and statements of economic interests. Our Enforcement Division devoted significant resources to these proactive programs as well as proactive investigations leading to successful civil prosecutions for concealment of the true source of campaign contributions. The Enforcement Division did not complete work on an "enforcement priorities plan," however, but instead postponed that work for reasons discussed further below.

### Proposals for calendar year 2002

Our proposed objectives for next year are relatively modest in scope. This reflects anticipated

budget cuts and resulting staff reductions, and the necessity of devoting significant staff time in all divisions, on an ongoing basis throughout the year, to accommodate the myriad issues expected to arise as candidates run for office under the new Proposition 34 rules.

Given these budgetary and workload restrictions, we propose the Commission choose one of the following for next year: (1) review of the Enforcement Division's prosecution and fining policies, or (2) review of the Commission's role in ensuring proper preparation of agency conflict-of-interest codes, and timely filing of employees' statements of economic interests.

## 1. Enforcement policy review

In the course of preparing an enforcement plan, the division reviewed a number of past efforts to identify enforcement priorities and fine-setting policies. One such effort culminated in a July 3, 1989, memorandum to the Commission, a copy of which is attached. Many, if not most, of the statements made in that memorandum hold true today. It is unclear whether a renewed effort by Enforcement to draft a new statement of principles would add enough to that earlier effort to justify the use of limited staff resources. The consensus among executive staff was that simply drafting another such report, subject to Commission review, would not accomplish our goal of understanding and ensuring the consistency of the many policy decisions that underlie enforcement decisions.

Achieving Commission consensus on the content of an enforcement plan is most likely to happen if it is developed with the Commission during the monthly meetings. This method also has the advantage of allowing for public input.

Our proposal would be to schedule time on the agenda for bi-monthly enforcement policy discussions, with each one focusing on a single substantive area, e.g. laundering, conflicts of interest and reporting violations. During those discussions, the staff and Commission would review the elements of a violation; whether our enforcement in this area would benefit from changes in our regulations or advice; the Commission's past treatment of similar violations; the factors weighed in deciding whether to prosecute and if so, whether to proceed administratively or civilly; and the appropriate fine level, including a discussion of mitigating and aggravating factors that should be considered for each type of violation.

The goal of each bi-monthly discussion would be to emerge with a statement of Commission policy with respect to those types of violations, with the understanding that staff must continue to have great flexibility and discretion in dealing with the differences in individual cases. Implementation would follow in accordance with a schedule approved by the Commission at the bi-monthly discussions.

## 2. Conflict-of-interest codes/statements of economic interests

The Political Reform Act requires many public officials to disclose personal financial holdings that may be affected by their official duties. It does so through two vehicles: adoption of agency conflict-of-interest codes, and mandatory filing of individual statements of economic interest.

The Act requires every state and local agency in California to adopt a conflict-of-interest code. Most of those codes currently are based on a "model code" contained in Commission regulations. All codes are subject to biennial review and amendment for changed circumstances and

must be approved by a “code-reviewing body.” The Commission serves as the code-reviewing body for all state and multi-county agencies, encompassing approximately 1,000 codes. (County boards of supervisors and city councils generally serve as the code-reviewing bodies for approximately 6,000 local agencies.)

We estimate that approximately 100,000 state and local officials and employees file statements of economic interest each year. Certain high-level state and local officials are required to file statements of economic interests; these officials are listed in Government Code section 87200 and include officials holding statewide elective office; members of the Legislature and certain key state commissions; judicial officers; and top county and city officials. Generally speaking, these individuals file statements when they become candidates and/or assume office, and file updated statements annually. Officials listed in section 87200 are subject to the most extensive disclosure requirements under the Act.

In addition, each agency conflict-of-interest code designates which employees and consultants within the agency must file statements of economic interests. These individuals may be required to make only limited disclosures of their financial interests, depending on their duties. Agencies are prohibited from requiring more disclosure than is necessary to comply with the Act. See *In re Alperin* (1977) 3 FPPC Ops. 77; *Carmel-by-the-Sea v. Young* (1970) 2 Cal.3d 259.

Most statements of economic interests are not filed initially with the FPPC, but instead are filed directly with the state or local official’s agency. The FPPC reviews and retains approximately 20,000 statements of economic interests filed each year by the officials listed in Government Code section 87200, designated employees of the Senate and Assembly, members appointed to state boards and commissions, state department heads, and employees of certain multi-county agencies.

Statements of economic interest do not reveal whether an official actually has a conflict of interest. Some common sources of potential conflict – e.g., one’s personal residence – may not be required to be disclosed on the form. Moreover, the form requires disclosure only of financial interests held in the preceding year, while our conflict laws also look to the official’s current and future financial interests. Nonetheless, every public official in this state is prohibited from making, participating in or influencing a government decision that has a reasonably foreseeable material financial effect on his or her personal financial interests, regardless of whether the individual is required to file a statement of economic interests or to disclose the particular financial interest that is affected.

This disclosure regimen is described more fully in a new publication from our Public Education Unit, entitled “Your Duty to File: A Basic Overview of State Economic Disclosure Law and Reporting Requirements for Public Officials.”

From its inception, the conflict disclosure scheme was intended to be decentralized. Section 87301 of the Act states:

It is the policy of this act that Conflict-of-interest codes shall be formulated at the most decentralized level possible, but without precluding intra-departmental review....

The public scrutiny given to this decentralized disclosure regimen in recent months has caused us to begin an internal review of the Commission's responsibilities and procedures with respect to conflict-of-interest codes and statements of economic interests. Our staff also has increased its efforts to educate the public, the press and state agency officials on these issues.

Our initial internal review has identified a number of areas where the Commission might consider steps to improve and strengthen our role in this conflict/disclosure regimen. Some of the areas identified so far include:

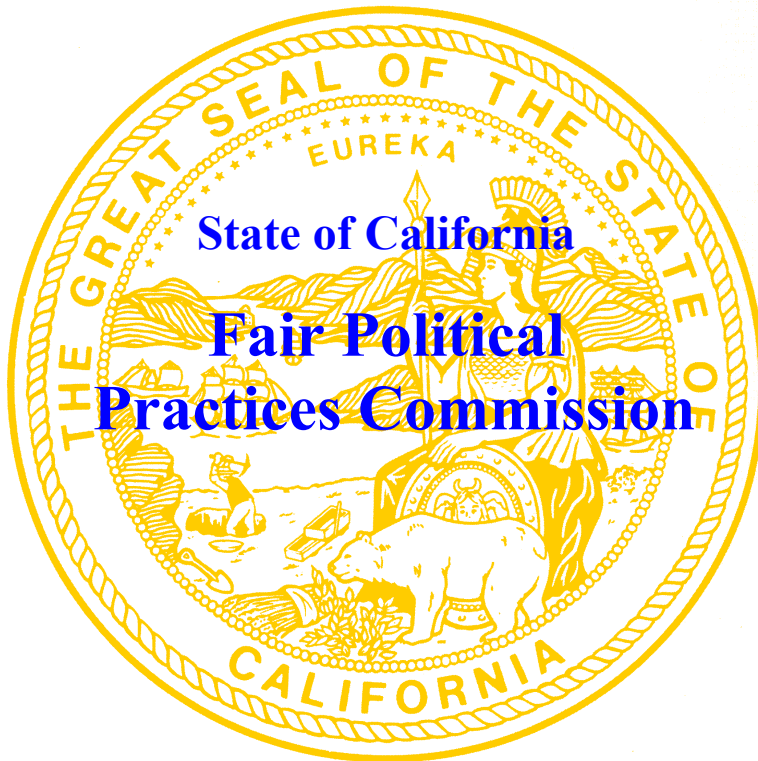
- ◆ Consideration of whether agency conflict codes adequately detail those positions requiring disclosure. In its early years, the Commission determined that many agency codes were too broad; this led to adoption of a model code. The Commission may want to review how the model code is being applied by agencies, and whether other steps can be taken to ensure that conflict codes are adequately tailored to the specific disclosure needs of each agency.
- ◆ Consideration of whether Commission staff's review of agency codes is adequate, or whether further guidance is needed on factors to look for in reviewing codes.
- ◆ Consideration of whether additional resources are needed to ensure adequate review of all state agency codes.
- ◆ Consideration of the role state personnel agencies could play in helping determine whether certain job classifications should be designated for disclosure, and if so, the amount of disclosure that should be required for each classification.
- ◆ Consideration of Commission staff's training program for filing officers/ethics officials in state agencies. The Commission may want to review whether we have and/or utilize sufficient resources to adequately train state agency staff on these matters, and whether further incentives are needed to make sure agencies adequately perform the duties required of them by the Act.

### Recommendation

Both proposals for next year are worthy of Commission review. In an ideal world, we would undertake both. However, diminished staff resources and increased pressures from Proposition 34 implementation make it impossible for staff to accomplish both policy reviews and still perform the other duties required of this agency.

The Executive staff expressed a preference for proceeding with the conflict-of-interest code review. Ultimately, the Commission must make that call, weighing such factors as the relative importance of each proposal to the public, their relative impact on staff resources, and any other factors that may affect our ability to conduct and complete a thorough, fair and unbiased policy review.

(NOTE: The Commission directed the agency to undertake both proposed alternatives.)



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